한독사회과학논총 제31권 제1호(2021. 03)
http://dx.doi.org/10.19032/zkdgs.2021.03.31.1.29

Germany's Corona Crisis: The State of Emergency and Policy (Mis)learning

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Contents

<Abstract>

This article analyzes Germany's policy-making in response to the Corona crisis between January 2020 and March 2021. Two theoretical perspectives are advanced. The first concerns how the government's imposition of a 'state of emergency' affects liberal democratic policy-making resulting in the closure of deliberation in favor of top-down imposition. The second perspective looks at different types of policy

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learning under crisis conditions. The central thesis is that Germany's emergency regime failed to facilitate effective policy-making since it closed down venues in which policy learning could occur. Thus, the state of emergency combined authoritarianism and inefficiency. A variety of explanations are advanced to clarify causes for the sluggishness of the German federal, regional, and local government levels to meet Corona-related challenges.

Key words: Corona virus, federalism, emergency regime, Germany, policy learning, lockdown

I. Introduction

This article analyzes German policy-makers' efforts to learn relevant lessons to adequately deal with the Corona virus pandemic (medical term: SARS/CoV-2/COVID 19). Here, the challenge presented by the pandemic is conceptualized in a broad sense, namely as escalating from a medical into a political, economic, and, ultimately, moral crisis potentially challenging the legitimacy of the political leadership in the event of failure. At the time of writing, the Corona crisis has revealed how dysfunctional Germany's public sector operates under crisis conditions. In theory, the German system of federalism allows competing crisis management styles to develop in parallel to facilitate mutual learning of relevant lessons. Constitutionally, disaster management is defined as the task of the 16 regional (*Land*) governments. The other two federal levels, the federation and the localities (*Bund* and *Kommune*), are constitutionally expected to collaborate with the regions in disaster management.

However, there is little evidence that Germany's federal system has been able to engage in effective policy learning since the beginning of the Corona crisis. The first 15 months of Corona crisis management instead revealed that the relevant political actors were satisfied to run an extremely costly and slow-moving style of policy-making. In particular, Germany's two central pillars of crisis management consisted of across-

the-board lockdowns of many economic sectors and the education sector (in late March and April 2020, and again since November 2020, in an open-ended manner), and open credit lines and compensatory payments for most sectors of the economy. In practice, compensatory policies proceeded in a highly bureaucratic manner favoring large businesses, while small and medium enterprises and the self-employed faced inadequate provisions that did not protect them from the general economic downturn.

Overall, the handling of the Corona crisis demonstrated that the different layers of German federalism possessed low capability for collaboration and learning at all levels of policy-making and implementation. The country's public sector governance is based on low innovation, low dynamism, and low trust. It combines hyper-bureaucracy with a style of operations that is hardly distinct from the pen-and-paper era of the 1970s. The symbol of the malaise of the German state bureaucracies long predates the Corona crisis. It was most adequately represented by the effort to build the Berlin airport (2006-2020), which was characterized by endless delays and cost overruns for which nobody ultimately took responsibility. The current Corona crisis and the previous never-ending story of the Berlin airport construction also point to latent conflicts between political decision-making and the rule of law. During the Corona crisis, state actors removed numerous basic civil liberties guaranteed under the German Constitution in a totally unprecedented manner. German federal state actors ordered citizens, businesses, and parents to completely reorganize their affairs. Even the most optimistic observers doubt whether state actors will ever be capable to compensate the losers of the crisis measures in an adequate manner.

The decline in Germany's public sector capabilities did not emerge overnight, but is the outcome of long-term austerity policies emerging since the mid-1990s. In the 21st century, the public sector was subjected to cutbacks, marketization, and incremental but steady privatization. In the health care sector, the principle of state-provided essential service provision (*Staat der Daseinsvorsorge*) was increasingly set aside in favor of the selective privatization of services likely to be profitable. Such policies combined pathologies of public and private sector incentives, ultimately delivering the worst of both worlds. Retrenching the public sector meant

that existing attractive assets were sold off to make public budgets look balanced, while sustained underinvestment in the remaining assets resulted in the general deterioration of public infrastructure (Wolf, 2020). In addition, the long-term absence of a sense of urgency or mission in public sector leadership (important public projects were as a matter of routine outsourced to private sector management consultancies) facilitated the structural decline of Germany's state bureaucracy. It cannot come as a surprise, therefore, that German policy-makers were forced by the Corona crisis to turn to a state of emergency to strengthen their authority.

The central thesis of the current article is that emergency policy-making, concentrating authority at the top of the political pyramid, does not automatically deliver more effective structures to implement public policy. This is particularly the case if the command centers self-isolate from broader debates and instead focus on 'group think' and tunnel vision. Moreover, streamlining the chain of command does not make ineffective structures more effective: the different levels of German federalism lack strong linkages that would allow implementing policy in a coordinated manner. Furthermore, to 'err on the side of caution' with regard to the Corona threat has become an excuse for the federal and regional executives to run a rather limited set of policies based on tactical day-to-day announcements from the chancellor and the regional prime ministers. These policies are informed by a very small number of advisors and a sense of fear rather than by efforts at deliberative policy-making and strategic thinking about how to address Corona-related issues in the medium and long term.

The danger of this permanent short-termism in German crisis management - now in evidence for more than a year and counting - is that any perceived deterioration of the Corona situation quickly triggers further rounds of escalation in the application of poorly targeted emergency powers. It is easy for policy-makers to climb up the ladder of escalation, whereas climbing down is costly since it means that previous mistakes in decision-making have to be acknowledged. The winter season of 2020/2021 saw further top-down imposition of various *ad hoc* Corona policies without adequate public debate or balanced scientific advice. In January 2021, opinion polls suggested for the first time that the majority of the public now holds a negative view on how the

Corona crisis is managed (ARD Deutschland Trend, 2021). This could well be a crucial turning point in the history of unified Germany since the Corona virus has highlighted the overall fragility of the country's public sector and social order.

II. Theoretical focus: The state of emergency and policy (mis)learning

This section provides a theoretical framework to explain Germany's Corona-related policy-making. The two analytical perspectives advanced here are located at different levels of generality. Firstly, theories of the state of emergency derive from classical political theory. They originate from efforts to explain pre-modern forms of statehood focusing on the Hobbesian coercive nature of the state. However, the constitutional order of modern liberal democracies provides under normal conditions for rules and regulations that are supposed to avoid the state of emergency, thereby limiting the domestic use of direct physical force. In what follows, the question of how the state of emergency originates from within a liberal- democratic order under pressure is discussed with reference to the work of contemporary authors.

Secondly, theories of policy learning concern how states are expected to maintain their capability to act in a purposeful manner. The Corona crisis as a perceived medical emergency of considerable duration places demands on the state to engage in short-, medium- and long-term learning. Day-to-day management of virus-related challenges is the bare minimum of state activity, while efforts at strategizing are unavoidable if the crisis does not burn out on its own and/or medical solutions from outside of the realm of political activity become available. Thus, the state of emergency is perhaps an unavoidable initial fallback position when facing an unexpected crisis. Yet, efforts at policy learning are the only feasible way to deal with, and hopefully overcome, the crisis. In the next section, the state of emergency is

discussed before the argument turns to policy learning under crisis conditions.

1. Liberal democracy and emergency rule

What has political science to say about the state of emergency emerging in liberal democracies? To begin with, the state of emergency has been considered as the final instrument of a state defending its own existence. In recent times, it has also been suggested that the power to initiate a state of emergency has proliferated beyond the confines of individual states and now includes 'emergency policies beyond the nation state' (Kreuder-Sonnen, 2019: 177). This observation will be further discussed below. As long as one remains analytically at the level of an individual liberal democratic state, one might highlight that the 'state of emergency is a constitutionally codified instrument of state-led crisis intervention' (Lemke, 2017: 2).[1] It normally consists of three core components, namely the cancellation of basic civil liberties, the introduction of a special form of governance empowering the executive, and, last but not least, usually includes time limits after which a restoration of the previous liberal democratic mode of governance is supposed to occur. If such initial time limits are absent, or when emergency measures become normalized and extended in time, one must reconsider whether the political system's framework has shifted toward an authoritarian mode.

It is often assumed that the state of emergency delivers additional power resources to state actors to deal with clear and present dangers in an effective manner. Thus, the 'tightening of lines of ordering and decision-making and the *resulting increase* in the ability of the executive to react is the classical basic argument for the necessity and actual application of the state of emergency' (Lemke, 2020: 61, emphasis added). It is also suggested that 'quick, unhindered and goal-oriented acts' allow the 'primacy of the executive and the removal (*Ausschaltung*) of bureaucratic and other counterparts, thereby concentrating, rather than dividing, the use of power - attributes that are under

1) All English-language translations of German sources are by the author.

comparatively normal situations anathema, but that must not be considered taboo under extreme conditions since doing so would mean to accept self-abandonment' (Greiner, 2013: 27).

This transformation of liberal democracy toward a state of emergency comes about when 'executive measures are taken that change the normal state order in a sustained manner, namely rule of law guarantees and basic liberties of the normal state are transformed or cut to such an extent that the new situation (*Faktizität*) can no longer be brought into agreement with the initial constitutional idea, yet at the same time without denying its initial roots either' (Schottdorf, 2017: 34). Thus, an escalatory logic vindicating and sustaining the state of emergency could develop. This risk is particularly serious if the number of threats, perceived or real, keeps multiplying. Under such circumstances, emergency authorities might become more and more centralized and powerful. During the Corona crisis, this dangerous expansionary logic of emergency powers must be the main focus of critical scholarship.

Moving on from such general observations to the German case of Corona crisis management, it must first be stressed that Germany's Constitution – the Basic Law – does not provide any explicit provisions for a 'state of emergency' (viral or otherwise). The Basic Law only mentions the case of armed attacks on the national territory and challenges deriving from natural disasters and accidents (Federal Government, n. d., Basic Law, Article 35 and 115a). While Article 115a covers national defense, Article 35 of the Basic Law on 'public security' and 'assistance during disasters' comes closest to being applicable under Corona conditions. Article 35 contains a general provision on 'legal and administrative assistance' between different federal state levels. It also allows federal instructions on the deployment of regional and federal police forces. Overall, Article 35 concerns short-term internal emergencies that can be directly and finally addressed by employing civilian security forces and, in the case of natural disasters and accidents, the military. These provisions do not directly address the problems posed by the Corona pandemic.

Thus, German policy-makers did not turn to the Constitution, but instead opted for a

partially new legal instrument. An already existing 'Infection Protection Law' (*Infektionsschutzgesetz*), first enacted in 2001, was significantly rewritten as 'Law to protect the population during an epidemic situation of national scope'.[2] Following the World Health Organization's (WHO) announcement of a global health emergency on January 30, 2020, and the same body's subsequent declaration of a global pandemic on March 11, 2020, the German Chancellor, Angela Merkel, delivered a speech on March 18, 2020, revealing the introduction of the emergency legislation on the 'epidemic situation of national scope'. According to a legal specialist, the wordy title 'must not obscure the fact that it constitutes an emergency law' (Mayen, 2020: 399). The grand coalition government of Christian and Social Democrats (CDU/CSU and SPD) voted the draft into law after debating it in the federal parliament on March 25, 2020. The opposition Greens and the Free Democrats (FDP) also supported the legislation, while the Alternative for Germany (AfD) and the Left Party abstained.

Although the text of the post-COVID Infection Protection Law (of particular significance are Articles 5, Section 2, Article 5a, Section 2, and Article 28a), issued in late March, allows the federal parliament to end the emergency legislation at any point in time with a majority vote, it does not explicitly define the meaning of an 'epidemic situation of national scope'. Under the emergency law, the Federal Ministry of Health becomes entitled to issue administrative orders inclusive of acts that remove certain basic citizens' rights granted by the Constitution. Such orders might concern issues that would normally fall under federal parliamentary jurisdiction. The Federal Ministry of Health can therefore override existing legislation and is granted the power to issue legal orders without Germany's second parliamentary chamber of the regions (*Bundesrat*) exercising the co-decision rights granted under Article 80(2) of the Constitution. Indeed, the emergency legislation has radically cut the significance of the second parliamentary chamber during the Corona crisis.

The second major impact of the emergency law is to entitle the 16 regional

2) The term epidemic signifies the spread of disease at the regional and national level. Pandemics signify the spread of disease at the global level.

governments, constitutionally considered the main actors in dealing with health-related policy-making, to introduce Corona-related executive legislative orders (*Corona- Verordnungsgesetzgebung*) without involving their regional parliaments. Critics have therefore suggested that the regional executive's anti-Corona orders 'mutate de facto to parliament-replacing legislative acts (…). Overstretching the norm-setting instrument of legislative orders (*Rechtsverordnung*) (…) toward a massive basic-rights limiting set of rules cannot proceed [in the spirit of the Constitution] without involving regional parliaments' (Pautsch, 2020).[3] Legal experts have also stressed that 'the existence of an emergency on its own is not yet a reasonable cause (*sachlicher Grund*) to hand over the right to change legislation to [non-parliamentary] order givers' (Mayen, 2020: 401). After all, parliaments are in principle still able to operate under pandemic conditions. Crucially, the stated purpose of the administrative order regime - to keep the health services able to operate - is too unspecific (*gibt nahezu alles her*) since it potentially allows an ever-expanding regime of administrative orders (ibid.: 402).

Observers have highlighted that the most important *ad hoc* Corona crisis governance body, namely the chancellor's regular virtual meetings with the 16 regional prime ministers (often termed the '*Bund-Länder-Schalte*', a rather untranslatable term), also lacks constitutional foundations. The meetings of what is sometimes referred to as the 'Corona cabinet' are confidential, and decisions taken by this coordination circle strongly predetermine subsequent Corona-related legislative orders (*Landesrechtsverordnungen*) at the regional level. The process bypasses the regional and federal parliaments and strengthens the discretionary power of regional prime ministers who have started to compete along an axis of 'tightening' versus 'opening' of regional Corona policies. In this context, the Bavarian Prime Minister, Markus Söder (CSU), played the role of hawk, while the North-Rhine Westphalian Prime Minister and CDU Chairman, Armin Laschet, frequently played the role of dove (Hildebrand, 2020).

3) Quotations from online sources do not include page numbers if the original does not contain pagination.

In marked contrast to parliamentary legislative procedures, the general public is now unable to monitor the activities of the political core executive, which has become authorized to impose legislative orders without facing any direct checks and balances. The only remaining venue for citizens to oppose such orders is to appeal to courts; citizens have successfully challenged numerous individual legislative orders. However, such *post hoc* legal challenges do not question the emergency regime's ability to put forward ever increasing numbers of legislative orders in shorter and shorter intervals.[4)]

Two more rounds of emergency legislation were passed in the Federal Parliament on May 19 and November 18, 2020, respectively. The changes in May concerned the relationship between the Infection Protection Law and other federal legislation, while the changes in November were at least partially aimed at pacifying the legal critics of the earlier measures. The November legislation 'defined' the meaning of an 'epidemic of national scope' as deriving either from a WHO-issued emergency of international scope or from regional epidemics threatening Germany. It should be noted, however, that this phrasing still carefully avoided stating any detailed quantitative indicators for the presence of an epidemic emergency. In this context, German policy-making now explicitly follows decisions taken at the international level, which points to the increasing power of global governance structures.

At least three major elements of Germany's executive-dominated regime since March 2020 deserve further scrutiny. These are (1) the appropriateness of individual legislative orders; (2) the question of whether these orders are still following the spirit of the constitutional order; and (3) whether or not the major bodies of decision-making, in particular the 'Corona cabinet' meeting of the chancellor with the 16 prime ministers, the executive orders issued by the health ministry and the 16 regional executives, and the institutions and individuals advising these main centers of

4) The ever expanding list of administrative orders issued at the federal and regional level since March 2020 underlines the rapid growth of the Corona emergency regime, https://de.wikipedia.org/wiki/Liste_der_infolge_der_COVID-19-Pandemie_erlassenen_deutschen_Gesetze_und_Verordnungen.

decision-making really deliver on the initially stated purpose of creating more effective crisis management. Thus, the quickly changing landscape of emergency policy- making demands scrutinizing whether the actors are actually engaged in successful policy learning to tackle the crisis more effectively.

2. Policy (mis)learning under emergency conditions

Turning now to the second theoretical problem of policy learning under emergency conditions, the viability of the Corona crisis regime critically depends on the ability of policy-makers to gain relevant knowledge to inform their activities. To make it easier to apply the concept of policy learning to the Corona crisis, three analytical perspectives will be briefly outlined. Firstly, some general ideas on policy learning will be presented. Secondly, different types of policy learning will be described. Finally, policy learning under crisis conditions will be discussed.

Concerning the issue of *general ideas on policy learning*, the initial starting point for learning to occur is *to learn what to learn*. Which particular policy should be pursued to achieve a certain objective? It has been suggested that one basic distinction in policy learning might be whether the act of learning is voluntary or coercive. In the former case, voluntary exploration of policy lessons from elsewhere was described as 'lesson drawing', while the latter case of forced learning was termed 'policy transfer' (Dolowitz *et al.*, 2000: ch. 1). Nevertheless, the two concepts of lesson drawing and policy transfer are closely related: 'Why a lesson is drawn, where a lesson is drawn from and who is involved in the transferring process all affect whether transfer occurs and whether that transfer is successful' (ibid.: 11).

It is therefore of the highest significance to consider the necessary preconditions for policy learning to occur. Success or failure can be to a large extent anticipated from the appropriateness, or otherwise, of the suggested policy transfer in the context of existing policy-making capabilities (or lack thereof). In cases where policies are copied and 'transferred' without proper consideration of local institutional capabilities,

one ends up with policy mimicry based on wishful thinking. The new policy exists either only on paper or its implementation is little more than symbolic. Such initiatives are usually highly wasteful and might demoralize the local actors – making them more hesitant to engage in future lesson drawing from elsewhere. However, as long as a policy transfer is properly matched with local institutional capabilities, one might expect a more successful outcome. The literatures on welfare state regime types and on 'varieties of capitalism' have underlined that preexisting institutional capabilities and complementarities between specific groups of countries are a major pre-determining factor to explain how lesson-drawing might proceed in a successful manner (Hall and Soskice, 2001). Under normal circumstances, countries with many institutional similarities and a comparable level of socio-economic development are most likely to be able to draw useful lessons from each other. By the same token, it is doubtful whether existing limits in the country-specific potential for policy learning can be easily overcome under crisis conditions.

Moving on to the second issue of *different types of policy learning*, one might first focus on *what kind of agent can conceivably initiate policy learning*. There exists a large variety of possible actors. The literature prominently describes 'policy entrepreneurs' as those who engage with specific areas of policy-making over longer periods of time. Such entrepreneurs 'invest their resources – time, energy, reputation, money – to promote a position in return for anticipated future gain in the form of material, purposive, or solidarity benefits' (Kingdon, 1995: 179). A similar type of agency favoring policy learning has been described as 'ideational leadership', stressing how individual agent's might facilitate 'institutional breakout' in the context of previous 'decline and decay of institutional practice' (Stiller, 2010: ch. 2).

Beyond such notions of individual agency, the more typical context of institution-based and -led policy learning at the local, regional, national, or international level demands scrutinizing whether or not institutions are actually capable of advancing learning. Focusing on institutions means considering alliances (or networks) of states with similar interests, international governmental and nongovernment organizations (IGOs and NGOs), issue networks of special publics, epistemic communities,

professional organizations, think tanks, and semi-informal clubs of influential elite actors such as the World Economic Forum (George, 2015: 118-121, ch. 5; Johnstone, 2020).

Finally, one must turn toward the issue of *crisis-driven policy learning*. The Corona challenge creates high uncertainty for policy-makers, strongly suggesting that urgent action is required while essential information about causes and consequences remains unreliable or incomplete. In parallel, there also exists an oversupply of 'information' which makes it nearly impossible from a cognitive point of view to gain any final overview to sort out what is essential and what should be ignored. The statement that '[a] crisis is political in nature' and that '[p]eople do not always agree whether a threat exists, whether it is urgent and what should be done to mend the threat' certainly applies to policy learning under Corona conditions (Boin *et al.*, 2018: 26). The very fact that public perceptions of the Corona crisis continue to fluctuate between extreme poles along the lines of 'the end of the world as we knew it' versus 'a medium-threat new type of flu' suggests that the failure to agree on the properties of the crisis is the most crucial challenge in efforts at policy learning. Permanent oversaturation with (dis-)information highlights that 'conditions of threat, uncertainty and urgency' make for an environment in which '[l]essons must be learned quickly in real time and based on evidence with large confidence limits and subject to change' (Powell and King-Hill, 2020: 877, 879).

Looking at the three types of policy learning outlined above suggests that the literature mostly displays 'receiver bias' in efforts to trace how policy learning works. However, the role of senders must be equally scrutinized since Corona-related crisis news might be weaponized to target vulnerable receivers. In fact, geopolitical conflict does not cease due to the perceived crowding out of the agenda by Corona-related issues. The best protection for receivers of Corona-related policy lessons against being misled might still be focusing on their own country-specific context rather than to copy inappropriate lessons from elsewhere. In this context, Richard Rose's concept of 'prospective policy evaluation' (2005: 128-134) demands that actors 'assess the effects of a policy [transferred from elsewhere] before it is put into place' and 'isolate

the factors that matter' (Mossberger and Wolman, 2003: 437–438).

It should be kept in mind that policy success and failure observed elsewhere both offer valuable lessons, although the time factor during the Corona crisis might indicate that what looked appropriate at a particular point was ill–conceived in another context. Finally, as long as the goals of policy–making are unclear to begin with, or when similar descriptive labels are used for policies that are rather different (e.g. comparing the economic lockdowns in various countries), any effort at learning will lack direction and clear purpose. As long as inappropriate statistical 'evidence' is used for comparing success or failure within and across countries, the learning of useful lessons will not be possible.

III. Descriptive account: The Corona virus and German policy-making (January 2020-March 2021)

This section provides a brief outline of Germany's first year of Corona crisis management focusing on policy–making and policy learning. To begin with, one might stress that Germany and other European Union (EU) countries did not hold any recent track record of dealing with the spread of epidemics. Since previous policy–making experience is a strong predictor of future behavior, Germany was not in a good position to face what arrived as an unknown challenge. The first German citizen testing positive for the Corona virus was logged on January 27, 2020. This person worked for a car–manufacturing supply company and is believed to have caught the virus from a Chinese colleague. Initially, German observers considered the Corona virus as a Chinese and, perhaps, East Asian issue. Many early commentators also felt that China was overreacting to the virus in a 'totalitarian' manner.

In the German case, the initial reaction of policy–makers, inclusive of the health

minister, was to suggest that the country was well-prepared for any epidemic challenge. However, the health minister ignored early warnings from the manager of one of the main German producers of protective equipment, pointing out that the country's national production capacities were insufficient to supply the country's health system or society at large. At this time, the minister wrongly assumed that such material would always be available in international markets. As a result of this misjudgment, face masks and other protective equipment became largely unavailable in Germany from February, 2020, and for a considerable period of time. This triggered the emergence of a household cottage industry where people started producing their own textile-based masks in reaction to the introduction of a national policy to make the wearing of masks obligatory.

1. Lockdown policies and misleading initial assumptions

Germany's first ever national lockdown in peace times began on March 22, 2020 and lasted until May 4. Different from China and from France, Germany's lockdown was 'soft' in the sense that there was initially no penalty-based enforcement. The lockdown was introduced in response to the dramatic Corona pictures and stories from northern Italian cities and the parallel emergence of a number of Corona 'hotspots' in Germany, such as in the city of Heinsberg in North Rhine-Westphalia and a number of localities in Bavaria. All 'non-essential' businesses, shops, and educational institutions were asked to close, while exceptions were made for supermarkets, pharmacies, and some childcare facilities. In turn, public servants were expected to be available for work, although they often became detached from their workplaces. German public sector offices continue to lack advanced communication technologies that would facilitate flexible working patterns during crisis periods (Wiemann and Heim, 2021). Crucially, public servants could still collect full salaries, while many private sector workers suffered partial income loss. Most hard-hit were freelancers and the self-employed who sometimes faced a total loss of income.

Most large companies and their production sites were closed down for 'plant

holidays'. This was attractive for many large businesses, such as car manufacturing, where the so-called 'reduced hours compensation' (*Kurzarbeitergeld*) allowed companies to shift the payment of workers' salaries to Germany's social insurance fund. For such companies, this proved to be a rather elegant way to deal with an overproduction crisis. Other German firms contributing to production chains elsewhere, particularly in China, quickly re-started operating normally after a short break from early April (Kühling, 2020). Finally, a small number of large companies continued normal operations. This was, for example, the case for sectors of the military procurement industry producing for export.[5)]

With regard to small and medium enterprises, the German finance minister promised compensatory payments. However, the process of applying for government compensation was highly bureaucratic, and many of the conditions, such as filing claim forms with the obligatory assistance of fee-charging certified tax advisors, excluded in practice the smaller companies. The self-employed in various sectors were told that they would be given one-off relief payments. However, details of such schemes differed according to region, and many were forced to fall back on the means-tested benefit system. Regardless of the promises, it became increasingly clear that lockdowns were ruining the self-employed and small businesses, thereby clearing the market for the online-based large retailers.

During the lockdown, public life in Germany slowed down to a large extent. This could be observed by the strong decline in traffic and public transportation. At the same time, the 'soft' lockdown left enough flexibility for many people to reorganize their working lives in an informal manner by re-combining home-based and office work. The public mood during this period combined fear of the unknown with disbelief and a certain playfulness deriving from the feeling that what occurred might simply amount to 'Corona holidays'. However, the atmosphere quickly deteriorated due to the rapid closure of national borders between EU countries. This step resulted in the immediate

5) The 'exception regime' during Germany's first lockdown, particularly how lines of authority actually operated between state officials and large corporations, would deserve further analytical attention.

large-scale collapse of informal care provisions for elderly people in Germany. Many private households had previously employed eastern European migrant workers to take care of elderly family members. Due to the border closures, such workers were forced to leave in an unplanned and chaotic manner which left many vulnerable elderly people without any alternative care provisions. Overall, the lockdown experience ended the previous lifestyle and pushed people toward the new reality of Germany's Corona emergency regime.

When adapting a larger analytical perspective beyond the lockdown experience, however, it becomes crucial to scrutinize what set of initial assumptions informed Germany's crisis managers. Here, one must highlight that the initial Corona debate was informed by a set of assumptions that quickly gained authority and continued to influence actors long after some of those early claims had proven to be wrong or at least highly misleading.

Firstly, there was the issue of Corona casualty figures. The initial reports emerging from Wuhan suggested very high Corona casualty rates. From today's point of view, it is clear that these figures were much too high. This should teach observers that each country follows vastly different standards in the collecting of statistical data. Perhaps the Chinese authorities calculated only the share of hospitalized patients dying, or they could have considered it wise to err on the side of caution to avoid being accused of downplaying the seriousness of the epidemic/pandemic. This initial vast overstatement of fatality rates triggered a global wave of fear and drove many EU countries to copy Chinese-style lockdowns to protect health services from being overwhelmed. However, much lower casualty rates were in fact also announced early on without gaining a similar degree of attention. For instance, Spanish sources correctly highlighted very low casualty rates in all age groups below 60 (lower than 0.5 percent). They also correctly indicated that the virus was much more dangerous for elderly people (Spiegel, 2020: 13). It is therefore rather surprising that German and other countries' politicians took so little note of the age distribution in Corona-related lethality when designing public policies.

The second major mistake was assuming that the epidemic/pandemic would follow an exponential growth curve known from the 'logic of compound interest'. This exponential growth image suggested that inaction on the part of policy-makers would be punished by a vast Corona wave that would totally overwhelm society. In March 2020, some politicians and scientists started speculating about large-scale casualty rates. The case for investing into anti-virus activities early on by means of preventive and, where possible, eradicating policies appeared morally and economically overwhelming. Suppressing the virus would also avoid costlier economic lockdowns further down the road.

However, there were a number of serious problems attached to this deceivingly straightforward logic. In particular, combining mathematical models with previous epidemiological experience failed to properly grasp either of these two fields of knowledge. Although past experience with viral spread does indeed suggest exponential growth waves in virus transmission, such growth waves also collapse on their own after a while - long before all non-immune individuals have become infected. This pattern of moderately to rapidly growing virus spread, followed by a mirror-image collapse in infection rates, tends to repeat in line with weather seasons and other external factors. The rise and fall of curve patterns in virus transmission, already well-know from previous (Corona) virus strains, has now also been observed in the current Corona case.[6] In summary, becoming single-mindedly focused on exponential growth scenarios of virus transmission risks misinforming policy- makers. It detracts their attention away from other crucial concerns that should also inform policy, such as how closures of the economy and education system trigger social pathologies and poverty.

Thirdly, policy-makers did not understand the actual transmission routes of the Corona virus. Over the subsequent weeks and months, however, 'natural experiments'

6) At the moment of writing, there is concern about British and South African Corona 'mutations' that are suggested to be more infectious than previous strains. Once again, the image of the exponential growth curve in infections, already in evidence in early 2020, triggers more fear across the world.

occurred in Germany and globally that all delivered similar experiences. The centers of virus transmission were normally jam-packed indoor settings such as prisons, refugee reception centers, night clubs, religious services, and crowded workplaces such as meatpacking factories and online warehouses. Most crucially, hospitals and old-age care homes were strongly affected. Transmission rates seemed to escalate whenever older people were circulating between these two institutions. Finally, there was a very large question mark concerning schools and university settings. After all, in these settings most people belonged to younger age brackets. The closure of such institutions was usually explained as necessary to avoid any transmission of the virus in home settings from younger to older people. However, there has been relatively little targeted research on whether or not the closure of the education system in fact serves any useful purpose.

In order to make the German public accept Corona crisis policies, it was initially argued that virus transmission had to be slowed down to protect the health services from collapsing. This line of argument was linked in the German debate with the 'hammer and dance' catchphrase invented in early March of 2020 by the blogger Tomas Pueyo and referred to in German debates in the original English. Here, the 'hammer' stood for initial emergency efforts to close down public life (lockdown and travel restrictions), to start widespread testing, to isolate infected people, and to trace their contacts. In turn, the 'dance' stood for the subsequent loosening of the emergency measures, for improving the quality of testing, and for maintaining social distancing (Pueyo, 2020; see also Pearce, 2020). The non-scientist Pueyo's influential early Corona narrative, launched at a critical moment in the initial European policy debate, made the case for virus suppression policies and against virus mitigation policies. It was suggested that the high costs of suppression policies, most significantly the lockdown of the economy, could be made acceptable if such measures had a clear timeline ending in the reopening of society. The paper claimed that '[t]he time needed for the hammer is weeks, not months' while also suggesting that lockdowns were probably not necessary as long as 'aggressive testing, contact tracing, and enforced quarantines and isolations' occurred (Pueyo, 2020).[7)]

Pueyo's 'hammer and dance' slogan influenced the strategic debate in the German state bureaucracy on Corona policies during March and April of 2020. In March, it quickly became clear that the crisis would force other topics off the agenda while windows of opportunity to frame the interpretation of the Corona crisis opened up. One prominent early effort at strategic thinking was a confidential paper by a group of anonymous authors drafted on behalf of the Ministry of the Interior. The paper, written in mid-March and declared confidential, outlined different Corona scenarios from mild to dramatic and advanced some estimates about what kind of social and economic damages were likely to occur.

Most significantly, it was suggested that the population should be subjected to a nudging campaign based on fear 'to achieve the desired shock effect' and to create support for the forthcoming emergency measures. The report stated that 'dying from lack of oxygen or not getting enough of it is every human's primal fear'. By the same token, it was claimed that children would be strongly affected by the crisis 'getting easily infected, even in the event of a lockdown, for example from children in the neighborhood. If they subsequently infect their parents and one of them dies painfully at home, they will feel guilty if they for example forgot to wash their hands, which is the most terrible thing a child can possibly experience' (Federal Ministry of the Interior, 2020: 13). This 'confidential' paper was quickly leaked and published on a private transparent government website. Six weeks later, the Ministry also published it on the official website. In the event, the highly speculative document was mostly ignored and the Interior Minister sidelined from any major crisis role in favor of the already described Corona crisis cabinet consisting of the chancellor and the 16 regional prime ministers.[8)]

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7) With the advantage of hindsight, the weak part of Pueye's argument was the belief that mitigation policies were not an option, since the Corona virus would otherwise become uncontrollable. In this sense, the article followed early assumptions about very high fatality rates that fortunately proved to be wrong. On the other hand, Pueye delivered a good typology of potential anti-Corona policy options. He was also notably critical of closures of the education system.

8) One year later, the same paper re-entered the media debate when it became know that the

2. Growing political controversies

As for the political parties in the federal parliament, the decision to approve the emergency legislation in late March was never in doubt since Christian and Social Democrats were united in favor of concentrating power at the top of the pyramid. The opposition parties differed in their behavior. The AfD, as the largest opposition party, appeared initially confused about whether it would be promising to demand very strict crisis management or to reposition in favor of defending citizens' civil and economic liberties against the state. The AfD co-leader, Alice Weidel, initially seemed to favor the former arguing in a parliamentary debate in early March that 'we have to deal with a real crisis here, which you [i.e. the grand coalition parties] cannot chitchat away'.

However, the AfD majority subsequently started arguing that the government measures were poorly designed in lacking proper targeting, thereby producing collateral damage much worse in comparison to the Corona virus. In subsequent weeks and months, the AfD became the main actor highlighting 'counter expertise' emerging from within the political and academic systems. In particular, the AfD questioned whether the impact of the Corona virus on the health care system was really as critical as suggested in government announcements. One of the first lockdown critics emerging from within the state bureaucracy, a senior civil servant in the Interior Ministry, circulated in late April a comprehensive position paper arguing that the partial closure of health services for patients with health problems unrelated to Corona produced many more casualties in comparison to the virus. He demanded improving data collection and a better judgment of trade-offs between costs and benefits of the emergency measures (Kohn, 2020). The subsequent decision of the Interior Minister to remove the public official in question, a rank-and-file member of the SPD, from his

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Interior Ministry had solicited the content in March, 2020, by suggesting to a number of academics that alarming scenario figures about likely Corona casualty rates were needed in order to allow planning for 'measures of a preventive and repressive nature'. Such a 'worst case scenario', forecasting one million Corona casualties and 57 million people being infected, was duly provided over a four-day period (Focus Online, 2021).

tasks meant that the AfD started praising him as someone who had tried serving the state rather than political parties.

The fact that the AfD became the main force in criticizing the government's crisis management meant that the three other opposition parties in order of their parliamentary size, the liberal FDP, Left Party, and Greens, became in turn more reluctant to question the 'scientific' basis of the government's activities. The FDP was still relatively more critical in demanding the protection of economic activities from across-the-board lockdowns. In turn, the Left Party single-mindedly focused on demanding generous compensation payments for small business, workers, and for people receiving social protection payments. Finally, the Greens were hardly visible in public debates of Corona issues. Neither the Left Party nor the Greens made any effort to focus on questioning the government's increasing authoritarianism. Thus, the relative passivity of the two center-left opposition parties allowed the AfD to nearly monopolize the role of government critic.

During the first lockdown in March and April of 2020, Corona fear among the general public quickly escalated. At this critical moment, one senior scientist, Klaus Püschel, the director of the Hamburg-based Institute of Legal Medicine, quickly gained national attention after announcing that he had personally conducted forensic medical examinations of nearly all 'Corona deaths' in his native city of Hamburg. He did so by ignoring the advice of the Robert Koch-Institute (RKI), the government's main advisory body, which had claimed forensic medical examinations to be 'too dangerous' in the Corona context. It transpired that the average age of the deceased had been around 80 and that they had all suffered from preexisting serious health conditions, which meant that their remaining life expectancy had already been very low. Since Püschel is Germany's elder statesman in the academic field of forensic pathology, his carefully calibrated intervention helped to put the Corona threat into perspective by suggesting that people died 'with' Corona rather than 'from' Corona. Moreover, Püschel stressed that the health services were not suffering from any acute lack of capacity in dealing with patient inflow (Tagesschau 24). In subsequent statements, he added that most elderly people were also well-able to overcome Corona infections.

In the spring and summer of 2020, and until the second lockdown in November 2020, the situation normalized to some extent. On the one hand, the share of 'positive' PCR-tested people in Germany declined between weeks 23 and 37 of 2020, with one exception to below 1 percent of all tests, while the overall number of tests more than tripled (RKI, 2020: 14).[9] Some observers suggested that the Corona virus had all but disappeared, while others stressed that there was no longer any acute threat to overburden the health services. There were various efforts at normalization which included restarting the German and European tourism industries and re-inviting seasonal workers from eastern Europe to perform jobs in German agriculture and in the meatpacking industry. The latter decision, in particular, restarted the cycle of transient workers being moved into crowded accommodation without adequate protection.

Over the summer and early autumn, two major developments occurred that were at cross purposes. On the one hand, the regime of 'protective measures' (mask-wearing and social distancing) became normalized. On the other hand, a new opposition movement formed against the measures that was soon dubbed 'Querdenker' (lateral thinker) by friend and foe alike. The new social movement had a cross-cutting appeal in the sense that progressives - according to opinion polls, around half of the participants usually voted for the Left or the Greens - joined forces with self-appointed defenders of the constitution, advocates of alternative education styles

9) Since many people with positive PCR tests show little or no clinical symptoms of ill health, doubts have been raised about whether they are infectious and requiring quarantine. The inventor of the PCR test, Nobel winner Kary Mullis (died 2019), warned that the test should never be used in isolation, without a clinical diagnosis, for the detection of diseases. Since PCR tests are highly sensitive, and the number of 'cycles' used to amplify virus genetic material to a point where it can be 'detected' is a crucial variable, agreement of a convention about how many cycles are reasonable to run is crucial. Yet there exists no fixed convention about how many cycles should be used to detect virus-DNA. It has been argued in numerous media venues, including legacy media such as the New York Times in the second half of 2020, that tests might be conducted with inappropriately high cycle numbers forcing non-infectious people to enter quarantine regimes (Mandavilli, 2020).

originating in the thought of Rudolf Steiner (1861–1925), libertarians, AfD supporters, citizens holding no fixed party affiliation, and a small number of far-right activists prominently posing with German Empire flags in front of the television cameras.

Because of the token presence of far-rightists among the 'Querdenker' rallies, the protests were quickly stigmatized as consisting, in the words of a SPD party co-leader, Saskia Esken, of 'Covidioten' (an invented term combining the words Corona and idiot). The protests, demanding the immediate restoration of constitutional basic rights and an end of the emergency regime, gained a certain amount of support in civil society in spite of the legacy media (state TV and print newspapers) not facilitating dialogue with the organizers who were considered beyond the pale of Merkel Germany. The largest protest rally occurred in Berlin on August 1, 2020, under the motto 'the end of the pandemic: day of freedom'. According to the Berlin police, 30,000 people participated while the organizers claimed 1 million (with the actual figure being somewhere in the middle). The strongest signal of the protests was that participants mostly refused to wear face masks. The very pictures of large groups of mask-less people assembling on a sunny day in an outdoor setting demonstrated to the public how much masks had already become the symbol of the state of emergency.

Overall, the 'Querdenker' remained a minority and efforts were made to isolate them further. Another rally on November 18, 2020, called to protest against the third major round of emergency legislation in front of the federal parliament, was dispersed by the police with water cannons. This manifestation of state authority further underlined how far German society had become polarized between a majority of people scared by the virus and a minority questioning the very foundations of the crisis. In November of 2020, a second so-called 'soft' lockdown started, which was repeatedly extended (at the moment of writing until the end of March 2021). This second, much lengthier lockdown meant that 'non-essential' shops and most education and childcare facilities were closed down while industry and some services continued their operations.

In January of 2021, the obligatory wearing of 'FFP2' masks (the equivalent of N95 masks containing filters) or of clinical masks was announced. This policy, a classical replacement activity due to an absence of any alternative policy ideas beyond the open-ended lockdowns, triggered an extremely dysfunctional and bureaucratic operation resulted in the mailing of government-printed 'mask-vouchers' to many German households. In turn, the vouchers were required for beneficiaries to visit local pharmacies in order to purchase the stated number of masks at a reduced price. The measure failed to serve any useful purpose, however, since FFP2 masks are officially recommended for single usage. Offering the 'gift' was in effect little more than handing over a three-day ration amounting to the state's delivery of a product sample in the most bureaucratic manner imaginable.

The winter of 2020/2021 delivered the message that the number of people testing positive for Corona virus was indeed subject to strong seasonal influences and that the winter period resulted in increasing demands on the health services. However, whether or not there exists any over mortality in comparison to ordinary winter flu seasons remained contested. Even the number of registered Corona victims appeared mostly due to discretionary judgments of local health offices (*Gesundheitsämter*) and did not follow the criteria suggested by the WHO (Schappert, 2021). While the month of December saw higher mortality in comparison to earlier years, many observers stressed that the average age of Germany's citizenry had also increased in recent years, and that fluctuations in the national mortality rate were in any case not much different from earlier years. By contrast, some other EU countries and parts of the UK did see higher mortality rates in 2020 in comparison to earlier years. The interpretation of the figures nevertheless depended to a large extent on the selected time frame, and similar EU-wide patterns were observed in earlier years.[10)]

10) Data on European Union-wide excess mortality lacks comparability, not least because Germany currently only provides data for two federal states (Berlin and Hesse) to the main longitudinal online source, EuroMOMO, see https://www.euromomo.eu/graphs-and-maps/#z-scores-by-country. The website's European excess mortality map, available since week 7/2015, allows comparing excess mortality patterns over recent years. Thus, the maps for weeks 2/2017 and 2/2021 allow, for example, comparing a 'heavy' flu season with

Since the beginning of the Corona crisis, many observers argued that developing vaccines would mean that the crisis would come to a close. There were always numerous problems with this expectation, however. First, many longstanding viruses such as HIV/AIDS have not been contained by means of vaccines. There exists a difference between vaccines targeting bacteria in comparison to those targeting viruses – with the former being more successful. Germany–located producer ,BioNTec, co–working with the US company, Pfizer, developed in 2020 a totally new type of mRNA–vaccine, which has been used in various countries since late 2020.

The experimental nature of this vaccine is underlined by the fact that the serum requires very low temperature storage facilities (around minus 60 degrees Celsius), which means that it is unsuitable in most countries and venues. Another problem with new Corona vaccines is that there exists by definition no long–term experience with potential side effects. In particular, the degree of protection offered by various Corona vaccines for different age groups remains unclear. Moreover, every virus, including Corona, is subject to mutations. Observers could not help wondering why media reports started giving prominence to Corona virus mutations in parallel with the rolling out of vaccination programs. At the moment of writing, South Africa's government had suspended the national vaccination program based on the AstraZeneca serum since it is no longer held to be effective against the 'South African mutation'. In mid–March of 2021, nearly all EU member countries, including Germany, also stopped using the AstraZeneca product due to concern about blood coagulation disorders.

Apart from the numerous medical issues, Germany's vaccine debate was also politically charged. Many politicians from the governing coalition parties suggested that vaccinated people should be allowed to regain the basic civil liberties stated in the German Constitution. At the same time, the issues of mandatory vaccinations and 'vaccination passports' were also broadly discussed. Free from any established knowledge about the impact of the new vaccines, the same politicians also speculated

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the current situation. Any future comparisons will become more difficult due to the fact that selective closure of services for other health conditions during the Corona period (e.g. delay in cancer screenings and treatment) will also influence future mortality rates.

about whether private service providers should be allowed to exclude people rejecting the vaccine from access to services. Here, the German debate clearly related to global lobbying efforts to introduce a 'biosecurity state', which would introduce surveillance technology developed long before the current Corona crisis, such as electronic vaccine passports, into the everyday life of German citizens.

Although most German politicians, including the chancellor, stated that vaccination shall remain voluntary, they have been less clear about whether they will support differential treatment between vaccinated and unvaccinated citizens in the future. At present, these debates appear to put the cart before the horse. It is an open question whether one-off vaccines will offer any long-term protective effect against the Corona virus, or whether they will merely be issued in permanent 'refresher' cycles similar to the annual flu vaccines to deal with never-ending 'mutations'. Taking further into account that there are many different types of Corona vaccines - and many more in the pipeline - suggests that issues of 'mutual recognition' of vaccines of different national origin and strong resistance against enforced vaccinations across the world could still derail global surveillance plans.

To conclude this descriptive account of Germany's management of the Corona crisis, supporters and critics of the government's course disagreed about practically each component of the government's policies. Defenders suggested that prioritizing the virus by way of lockdowns was required to cut the transmission routes. They openly stated that the purpose of the lockdowns was to force people to limit their life pattern to trips between workplaces and homes. Critics argued, on the contrary, that the government failed to develop a more sophisticated tool kit based on researching the actual virus transmission routes. They further stressed that the collateral damage of lockdowns was not monitored in any systematic manner. Finally, critics strongly condemned that the groups most at risk, i.e. senior citizens in care homes and the elderly in general, were not protected with targeted interventions such as testing of all external visitors in care homes, additional social services, subsidized travel, and reserved shopping hours for seniors. To sum up, defenders of the government continued to argue that Corona escalation scenarios were too dangerous to change

course. Critics charged, however, that the government was unable to engage in basic cost–benefit analysis – running totally ineffective policies while still failing the most vulnerable.

IV. Analysis: How the state of emergency triggers policy mislearning

Summing up the track record of German Corona crisis management results in a rather demoralizing picture. The overall impression is that the country suffers from a general political and moral crisis. What has transpired in terms of an 'ecology of failure' (for lack of a better term to describe its systemic character) over the last 15 months or so cannot be solely blamed on the virus. Numerous earlier events had already undermined many citizens' confidence in the existing institutions and political actors. Such earlier episodes breaking the trust between state and citizens included the relative failure of the German unification process to socioeconomically integrate east Germans into the unified state, the withdrawal of core promises of the German welfare state in the early years of the 21st century, and the 2015 and 2016 large immigration wave to Germany from war zones in the Middle East and elsewhere.

What connects these earlier events with the Corona crisis is that large sections of society feel that former promises of mass prosperity are no longer valid, and that risks are individualized and distributed in an unjust manner. The socio–economic effects of the Corona era, namely the lottery–like distribution of costs and benefits, are bound to result in long–term repercussions. It is clear that the Corona crisis is going to result in a reorganization of Germany's political economy. Many parts of society will never recover from the sustained lockdown of the old and non–digital economy. The same applies to Germany's set of traditional political institutions consisting of representatives of the analogue age of mass politics, namely people's parties, trade unions, and nation–state

focused employer associations. These have all been noticeable by their relative absence from the current crisis management. Institutions that cannot perform under crisis conditions, however, will not be of major significance in the planning of the future.

The remainder of this section aims to clarify the political features of Germany's Corona crisis by looking at three interacting factors: (1) a crisis of political leadership due to a lack of legitimacy; (2) an 'epistemic' crisis, or crisis of meaning, based on the absence of a multi-disciplinary and open debate of Corona policy-making within the academic system and the media. Each of the two factors is discussed in turn.

In terms of political leadership, the authority to take decisions has been concentrated at the top of the pyramid of political authority. The main decision-making body now consists of the chancellor and the 16 regional prime ministers. This ad hoc crisis-managing body is not mentioned in the German constitution and must be considered as a genuine emergency innovation of German federalism. The body is in turn backed up by a handful of core federal ministers covering the health, finance, interior, and defense portfolios. Parliament is not part of the day-to-day decision-making process dealing with Corona policies and lockdowns. Instead, it performs a supervisory role *after the event*, namely that parliamentary debates about the extension of lockdowns have, as a matter of course, been conducted after decisions had already been made by the core executive. This downscaling of the role of parliament weakens the voice of the opposition parties and undermines the institutional framework of democracy.

In order to concentrate decision-making power at the top, Merkel's grand coalition government has procured the support of a very small group of scientists employed in the government-financed RKI. This group serves the purpose of creating scientific legitimacy on short notice by supporting decisions already made elsewhere. Nevertheless, one must not oversimplify what is going on during the current crisis management. In fact, concentrating authority at the top does not mean that the traditional need for political integration and procurement of legitimacy has disappeared. The crisis regime must still combine its Bonapartist features, namely appealing to citizens' virus fears,

with more traditional ways of soliciting for support. In this context, the government relies on at least two major sources of conventional legitimacy, namely support in opinion polls and repeated promises of public compensation for economic losses due to lockdowns. Until the end of 2020, the opinion polls suggested that a majority of Germans thought that the crisis regime performed well, or at least at an acceptable level. In early 2021, the opinion polls started to suggest that the public mood is turning sharply against the government. The collateral socio-economic damage of the lengthy lockdown is now broadly criticized.

The very fact that the so-called 'November [2020] help', i.e. the government's economic assistance for small and medium enterprise, was still discussed in parliament in February and March of 2021, and that the conditionality for accessing such help kept changing at the level of implementation, was a strong indicator that the government's economic insurance policies increasingly lacked credibility. Such policies are certainly difficult to implement due to the government's lack of bureaucratic capabilities and the danger of large-scale fraud. In fact, citizens have been led to believe that they are entitled to a 'fair share' of public assistance in compensation for the lockdowns. If this expectation should not be met, a rather realistic prospect given that political promises are not set in stone while public deficits are skyrocketing, it will totally undermine any further acceptance of the emergency regime.

In turn, the second core element of Germany's political Corona crisis consists of an epistemic crisis or crisis of meaning. The cause of the current predicament is at least partially due to competition between different epistemic communities in their effort to influence the government's policy-making. By granting the state-led RKI the role of gatekeeper in advising on Corona policies, the federal government insisted on clear-cut and streamlined advice where it did not (yet) exist. This resulted in the appointment of two RKI senior scientists, Lothar Wieler and Christian Drosten, as head government advisors. The former was selected due to his role as head of the RKI rather than due to his background in veterinary medicine. For more than a year, he performed his public service duties by stressing that he was 'very concerned' rather than by

offering more subject-specific advice. The latter, a virologist, in turn immediately became Germany's 'Corona-explainer-in-chief' and consistently used his influence to advocate for lockdowns of the economy to reduce infections. The high-profile role of the two German advisors is perhaps comparable with the role performed by Anthony Fauci and Deborah Birx in the USA during the final year of the Presidency of Donald Trump. However, the German advisees were certainly more keen to follow the advice being given, which remains a puzzle in explaining the behavior of Germany's core executive.

The reason to see a puzzle here is that the German government's behavior violates the perceived rules of the game in pluralist liberal democracies, namely to consider such systems as lacking any single steering center. Thus, it has usually been argued that 'choice of experts [by governments] relates strongly to how they define the problem. (…) These dynamics take place in a policymaking environment in which no single "centre" has the power to turn advice into outcomes. There are many policymakers and influencers spread across a political system, and policy is made or delivered in many venues, with their own rules and networks, over which senior elected policymakers have limited knowledge and influence' (Cairney, 2021, footnote omitted). The government's choice of a narrow gatekeeper approach was due to its goal of creating a steering center, namely to increase the relative autonomy of decision-makers to decide without having to bother with ambiguity and internal disagreement amongst virologists, other academic publics, or, indeed, the larger ensemble of parliamentary institutions.

The voice of Drosten subsequently became a major source in legitimizing the government's course of action. Since the virologist was astute enough to deliver his views in an ambiguous style, which allowed changing positions 'in the light of new evidence', the government in fact engaged in a purely symbolic call on science, or rather on a single scientist. In parallel, urgent scientific questions, such as whether or not the education system was a source of spreading infections, were left unaddressed. While this approach might have been defensible in the early weeks, and perhaps months, of the Corona crisis, supporting targeted research was in no way put at the center of the

government's immediate and urgent set of activities. Rather, the condition of 'Corona ambiguity' remained the reference point for government policy because this was the most attractive scenario to retain a maximum of political control and discretion.

Since the summer of 2020, the government increasingly claimed to accept that a purely virologist-driven policy process might not be the most effective way of dealing with the crisis. However, the government's quick-fix solution was to simply draft in another government-financed research body, namely the natural science academy, 'Leopoldina', consisting of around 1600 senior natural scientists, to further advise the government. While this step could have delivered a broader science-based foundation for government activities, the long-standing and high-prestige body subsequently failed to have any significant impact on the policy process. This became clear when Leopoldina was called to provide input on the government's plans to tighten up Germany's second lockdown before the 2020 Christmas holiday. The academy's 'ad-hoc statement' duly supported a tighter lockdown in quoting the then ongoing Irish lockdown as a role model (Leopoldina, 2020). However, the five-page statement was free of any scientific content. It enabled the government to go ahead with what had already been decided at the political level.

To explain the government's selective use of expertise, only on its own terms and whenever politically convenient, it is necessary to further analyze the role of major academic actors in the German Corona debate. Here, one might identify three groups and one single individual who have all tried to influence national Corona debates. The first group already discussed is the government's official set of advisors, namely Wieler, Drosten, and the RKI.

A second prominent individual with a major impact on the debate is the virologist Hendrik Streeck, who filled Drosten's former professorship at Bonn university when the latter moved to the RKI. Equipped with a natural talent for communication, Streeck gained his standing in the national debate from conducting the so-called 'Heinsberg study', the first empirical study of Corona infection fatality rates in a small German town that was presented to the public in May, 2020, and established that rates were

much lower than had initially been communicated. He subsequently argued that German society should focus on targeted intervention rather than across-the-board lockdowns, suggesting that society must learn to live with the virus. What made Streeck influential in the debate was a combination of his apparently optimistic spirit - the exact opposite of the Wieler-Drosten team - and his equally noticeable association with Armin Laschet, the prime minister of North Rhine-Westphalia. The latter made a point in attending Streeck's presentation of results of the 'Heinsberg study'. In January of 2021, Laschet was elected as new CDU party leader, and is therefore now contending to succeed Merkel as chancellor. In short, Streeck's association with Laschet makes the virologist appear as the government's lead scientist in waiting. He could take over in the case of a clear failure of the current lockdown policies and parallel 'Drosten fatigue' among the German public.

The third important actor in Germany's Corona debates consists of a self-organized and multi-disciplinary group of senior academics. This group, which includes academics with a medical or medical-managerial background, was formed to co-publish a series of so-far seven studies highlighting shortcomings of the government's crisis management. Headed by the internal medicine professor Matthias Schrappe, and including the already mentioned Klaus Püschel, the group's main criticism of the government has been the absence of a solid statistical evaluation of the prevalence of Corona among the population, i.e. the share of the population that at a given moment in time tests positive for the Corona virus. Without data on prevalence, in particular, government activities cannot be evaluated for success or failure (Schmid-Johannsen, 2021).

According to Schrappe, the government fails to take any interest in evidence-based evaluation. In a TV program, Schrappe demanded that representative cohort studies should be conducted to fill gaps in public knowledge, suggesting that 'we are in the field of speculation, basic rights are removed although we do not have any real and useful statistics. (…) As a scientist, I find it unbelievable that we are engaged in removing them [i.e. basic constitutional rights] in the absence of data. (…) The figures that we do have (…) are not worth the paper on which they are written'. He further added that 'we

have the impression that this blockage is due to the highest political leadership and that they simply do not want to change course. (…) The discussions have been narrowed down in a manner that has over time made us as a group of authors very concerned' (*sehr bedenklich werden lassen*) (Schrappe, 2020: minutes 17, 20, 29, 31).[11] Another member of the same group argued that the government's risk communication was chaotic and laced with authoritarianism while failing to offer any positive incentives for young people whose interests in socializing were simply declared illegal. The same critic demanded more preventive measures, rather than across-the-board lockdowns, whose negative impacts should no longer be ignored by policy-makers (Glaeske, 2020).

Finally, the fourth group of actors consists of individuals and groups that have been almost totally excluded from the legacy media discourse. One prominent example is the microbiologist Sucharit Bhakdi, who was for 21 years the head of the Institute of Medical Microbiology and Hygiene at the University of Mainz. Although Bhakdi's academic credentials cannot be questioned, and regardless of his track record in highlighting global mismanagement of the BSE epidemic in the early 2000s when he received positive coverage in the first German TV news program, he has now turned into a persona non grata in the eyes of the German government. After sending a public letter to Chancellor Merkel warning against the 'socio-economic consequences of the drastic containment measures' and co-drafting a bestselling monograph titled 'Corona, False Alarm?', which headed one German bestseller list for a number of weeks, he was denounced by a think tank employee as belonging to 'a crop of debunked but credentialed so-called experts minting conspiracy theories and undermining

11) The Schrappe interview was broadcast in a division program (not the main program) of the second German TV news. It was subsequently uploaded by a third party on YouTube. As if trying to prove a point, YouTube administrators subsequently removed the upload in the context of a larger censorship wave targeting German-language sources dealing with Corona issues from a critical perspective (Schmerer, 2020). YouTube wrongly claimed that Schrappe dealt in 'medical disinformation'. In fact, the interview exclusively concerned the government's Corona crisis management. This episode demonstrated that being interviewed on state TV does not protect from censorship, and that YouTube is able to detect 'thought crimes' in a preemptive manner.

fact-based information' (Barker, 2020).

In fact, looking at the interaction between the three groups and the single actor Streeck sketched above, one can draw major lessons from how the German (non-) debate has proceeded in terms of failing efforts at effective policy learning. One starting point is certainly the conflict between different academic disciplines over public and government recognition. Here, one must stress that various academic opinion leaders were keen to demand proper recognition for their particular discipline. For example, the former chairman of the German Constitutional Court, Hans-Jürgen Papier, criticized that political decision-makers listened mainly to 'natural scientists and not enough to constitutional jurists and experts who could comment on the societal side effects of anti-Corona measures' (Papier, 2021). Apart from pointing to the eternal conflict between natural and social sciences and competing research perspectives, one must highlight that the extreme privileging in public recognition granted by the government to Drosten and the RKI has triggered a strong backlash in academic circles.

The group headed by Schrappe was particularly critical of the tendency of 'group think', namely to divide the academic community into 'absolute supporters of government policy' and 'enemies of government policy'. This excluded those who still insisted on continuing to deliberate about individual measures. It was further charged that 'many state leaders have taken on the role of community leader (*Gemeinschaftsführer*). Their message to their "own closed group" is as follows: I will protect you, but it is functionally necessary to follow my protective measures directly and not to discuss or question them in a lengthy manner' (Schrappe *et al.*, 2021: 102).

Summing up this increasingly influential line of criticism of Germany's emergency regime, namely its dysfunctionality based on authoritarian self-entitlement, a group of academics argued in February 2021 that 'there is little or no space for scientific discourse [under current German conditions] before entering decision-making. Major components of society are not represented. The dominant impression is that those who do not fit the already fixed point of view of decision-makers will not be taken

into consideration even if they contribute to sharper decision-making and try contributing to finding best solutions. An open discourse with all major academic disciplines is decisive to overcome the crisis' (Arbeitsgruppe CoronaStrategie, 2021). Since this group of government critics includes a number of high profile medical academics, notably Schrappe and Streeck, one can interpret the statement as an urgent call on academics to self-correct and to re-enter open styles of deliberation.

Another way of highlighting how Germany's emergency regime is shutting down open debate is to look beyond the government-expert nexus. Analyzing the country's public media, especially the two public TV news programs, reveals that the government-approved Wieler-Drosten-RKI group received the lion's share of coverage (95 percent or more) and totally monopolized the influential evening TV news. The single exception from this pattern was the occasional appearance of Streeck. To maintain an appearance of plurality, necessary for a public media system funded from citizens' obligatory media tax, representatives of the group led by Schrappe were sometimes interviewed on regional, rather than national, and on special interest channels. By contrast, national news coverage remained reserved for government-approved experts.

In terms of inviting public intellectuals to national TV talk shows discussing Corona-related issues, the selection policy has become broadly ridiculed. One individual social democratic backbench MP advocating for hard lockdowns appeared to become a permanent TV fixture, and the closed circle of the invited few was maintained over many months. Once again, Streeck was the only exception from this exclusionary pattern. As for Bhakdi, who as the co-author of a national bestseller on Covid would normally have been a natural invitee to talk shows, he was invited for a single time as a co-interviewee on the little-watched German TV program targeting an international audience (Deutsche Welle, 2020). Subsequently uploaded on YouTube, this interview received 1.3 million hits, showing the pent-up demand for alternative voices among German media users.

The print media followed the same pattern. Since the beginning of the crisis, national

newspapers focused attention exclusively on the government-approved set of experts, while alternative voices, including Püschel's significant early intervention on Corona and mortality figures, were mostly covered in regional and local news outlets. In addition, the media rolled out 'fact checking' systems in order to protect the population from what became termed 'medical disinformation'. However, 'fact checking' is not the crown discipline of journalism and its representatives, namely junior journalists without subject-specific knowledge, often fail to convince. In a near Soviet-style of news management, fact checkers increasingly started targeting voices that had not even been published in traditional media outlets. The right to reply was never granted to those targeted by this new-style of campaign journalism.

In summary, clumsy efforts at establishing a truth regime based on handing over the decision-making power to define truth to private media conglomerates or to journalistic 'fact checkers', rather than to maintain an open debate, will further undermine public confidence in the traditional media system. If academic institutions volunteer to serve the day-to-day needs of political decision-making, their authority is also going to be eroded.

V. Conclusion

The general lesson of Germany's Corona crisis management is that authoritarian emergency rule deteriorates the quality of public policy. Without open debates in the media and in academic venues, effective policy learning in interactions between political and academic systems will not be possible, and political decision-making will fail to move beyond short-termism, namely ad hoc activities based on fear. What has happened in Germany since the introduction of the emergency legislation in late March 2020 is that a spiral of escalation in anti-Corona measures, taken without proper deliberation, has eroded public confidence in the political system and the rule of law.

The anti-Corona policies lack proper targeting: they continue to fail the most vulnerable groups while escalating collateral damage for other sectors of society in a way that would have been unconceivable even in the spring of 2020.

The low quality of crisis management of the grand coalition government is mostly due to a lack of proportionality and mission creep. As for the former, the sometime decline in registered Corona infections that is paid for by the closure of the social and economic systems clearly lacks proportionality. Advising a society to close down is only reasonable as long as no other and less damaging alternative policies are available. This directly relates to the second core feature of ongoing policy failure, namely mission creep. During the first lockdown in the spring of 2020, the German public was advised that this served the purpose of protecting the health care system from collapse. One might consider this explanation as reasonable in the sense that Corona knowledge was more limited at this point in time. One year into the crisis, no systemic collapse of the health care system has occurred. In this sense, the initial mission has been fulfilled. This is of course not to say that the German health care system is in good condition or that its personnel is granted the recognition it deserves. The fact remains that the period since the summer of 2020 was not used to substantially strengthen the health care system or the local health offices responsible for implementing Corona surveillance schemes. Yet targeted strengthening of the health care and health administrative systems is a much more effective policy in comparison to the closure of society.

Chancellor Merkel has recently tried pacifying critics of her administration. She explicitly acknowledged the sluggishness of government activities, adding that '[m]any of our processes are bureaucratic and take too long' (Federal Chancellor, 2021). But this factual statement does not stimulate any reform of ongoing policy-making. The chancellor continues to defend the lockdown policies by claiming that infections must be brought down to a level that allows local health offices to follow up on contacts of infected people. However, there exists no evidence that 'follow-up' has ever worked in an effective manner. In particular, the health offices have never tried producing statistics that could clarify which institutions, localities, and employment sectors are most Corona-affected (Klement, 2021). Rather than to

close down society, upgrading German public sector capabilities, and most urgently the health offices, appears under almost any cost–benefit analysis as the superior policy choice.

This directly leads to the larger message about how to deal with epidemic and pandemic challenges from a political point of view. In order to defeat them, a collective approach that includes socializing costs for testing, medical treatment, and covering the loss of earnings due to time spent in quarantine is required. Under liberal and deregulated types of capitalism, such as in the US and the UK, these costs fall largely on individual citizens. Deregulated systems face considerable problems in formulating collective responses, since poor people and those distrustful of the authorities have strong incentives to avoid virus testing for fear of loss of earnings (Wyporska, quoted in Tapper, 2021). The hollowing out of the liberal state has shifted responsibility to governance structures located above and below the core state executive (and the nation state), which allows state leaders to deny their responsibility, thereby abandoning the citizenry (Jones and Hameiri, 2021).

Although Germany appeared initially better prepared to face epidemic challenges, due to a higher degree of collective provision, this does not mean that the capacity to deal with serious crisis conditions can be sustained in the absence of effective policy learning. Germany's formerly coordinated market economy has become more and more fragmented in the 21st century. Large sections of society experience social status anxieties, low–quality public services, and declining levels of trust and public order (Dukes and Streeck, 2020). The Corona crisis reveals that each gap in welfare coverage and social integration can question the viability of the entire system and is in this sense self–defeating. However, closing down economic activities for long periods of time will also undermine the fiscal sustainability of any system of collective provision, and policy alternatives must therefore be found as a matter of urgency.

It must also be clearly stated that German policy–makers distributed crisis costs highly unequally, thereby failing to follow solidarity principles. The repeated lockdowns are particularly harmful to families who become overburdened during

lengthy closures of the education system. While parents are still expected to work normally, the state refuses to provide necessary social and educational services. In addition, policy-makers continue to make decisions about lockdowns, border closures, and changes in public health rules at very short notice. While this is done to isolate politicians from criticism – one is led to believe that immediate danger demands immediate responses – this once again individualizes costs, interrupts cross-border social services, and destroys individual life prospects.

Crucially, the issue of the unclear relationship between scientific evidence and public policy must be urgently addressed. After more than one year, the entire Corona narrative continues to be full of ambiguities. This starts with the unclear origins of the virus, continues with the ongoing controversy about whether or not PCR tests deliver any clear-cut information for policy-making, and does not stop with questions over actual transmission routes. Uncertainties about the virus directly affect public policy. Rather than to use science primarily in the service of politics or business, public academic systems must defend a degree of research autonomy. Addressing issues of urgent public concern would allow regaining a leadership role for academic efforts. To establish whether the closure of classroom instruction is really necessary to contain virus spread is certainly the most urgent issue on the agenda. Conversely, the political system should avoid directly interfering in scientific inquiries. While higher public funding for public science is of course laudable, this does not indicate that the government should run a license system of government-approved scientific gatekeeping. The more politicized the academic system becomes, the less it will be able to add value to public debates.

Finally, German federalism has also failed to display properties of a learning system. There is no evidence that the three levels of federalism have engaged with each other in a productive and problem-solving manner. In particular, the impact of local government on regional and national Corona policies has been minimal. Only a handful of local government leaders have tried to advance suggestions on how to implement effective protective measures. This is all the more disappointing as one of the core failures, the lack of protection of groups most at risk in geriatric care facilities, is at

least partially a local issue. In fact, qualified observers, including the former (now retired) head virologist of the RKI, have stressed that the failure of effective protective and testing regimes in social care facilities is mostly due to 'the absence of enough personnel that actually has time to do it' (Krüger, 2021: minute 7:55). Thus, it cannot be stressed enough that protecting the most vulnerable groups demands changing the social relations in society, namely to recognize the significance of care work, rather than to treat this field as an employment sector of last resort with a highly irregular workforce.

To draw lessons from Germany's emergency regime after the first Corona year remains difficult since all dimensions of the crisis are still evolving. In the short term, the self-defeating economic lockdown is likely to be ended since Germany's current decision-making center, the body made up of the chancellor and the 16 regional prime ministers, is under increasing pressure to do so. The prime ministers, currently the main check on the chancellor, are likely to take the initiative since many of their constituents are no longer able or willing to tolerate lockdowns. In the medium and long term, the future of Corona policy-making continues to depend on how the virus threat will be perceived by the general public. Policy-makers have gained crisis authority riding a wave of public fear. Such waves might return, or they might not. Much depends on improving the actual collection of trustworthy statistical data in order to gain a more realistic perception of the degree of viral risk in comparison to other social risks. In any case, the current situation represents the biggest constitutional and political crisis in the history of the Federal Republic. It remains to be seen how citizens will deal with the forthcoming economic and social challenges, and whether these challenges will perpetuate the shift to emergency modes of government.

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독일의 코로나19 위기: 긴급 상황과 잘못된 정치적 학습

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〈국문초록〉

본 연구에서는 2020년 1월부터 2021년 3월까지의 독일의 코로나 위기관리정책을 분석하였다. 이 논문에서는 두 가지의 이론적인 전망을 제시하였다. 첫째, "위기상황"의 국가의 개입과 자유민주주의 정치에 대한 그 영향력에 관한 것으로서, 공론장이 폐쇄되고 탑다운 방식의 행정명령적인 정치로의 대체를 꼽을 수 있다. 둘째, 위기환경에서 정치적인 학습의 다양한 형태를 다루었다. 정치적인 학습이 이루어져야 하는 장이 폐쇄되었기 때문에, 독일 정부 위기관리는 효율적인 정책 실행에는 실패했다는 점이 요지이다. 이로써 위기는 비효율성과 연결된 권위주의와 결합되고 있다. 본 연구에서는 독일 연방정부, 주정부, 지방자치단체의 '슬로우'에 대한 다양한 분석틀이 소개되고 평가된다.

주제어: 코로나19, 독일, 지방분권, 위기상황관리, 정치적인 학습, 폐쇄

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